REMARKS

This Amendment is responsive to the Office Action identified above, and is further responsive in any other manner indicated below.

DRAWING OBJECTIONS

With regard to the objection to the drawings at Item 1 on page 2 of the Office Action, traversal is appropriate with regard to reference numerals 104 and 1104. Reference numeral 104 appears in the specification as filed at, *e.g.*, page 11, line 19, and reference numeral 1104 appears at, *e.g.*, page 22, line 9. Reference numeral 410 does not appear in the drawings as filed but is described within the specification as filed at, *e.g.*, page 15, line 27 *et seq.* In accordance with 37 CFR §1.84(p)(5), Applicant respectfully submits herewith is a corrected formal replacement Figure 6 including reference numeral 410. As the above is believed to obviate all the listed concerns, reconsideration and withdrawal of the objection to the drawings are respectfully requested. Further, acknowledgment of receipt, and approval, of the attached formal replacement Figure 6 also is respectfully requested.

DISCLOSURE/SPECIFICATION AMENDMENTS

The disclosure/specification was objected to because of the Office Action concerns listed at Item 2 on page 2 of the Office Action. As the specification has been carefully reviewed and has been amended to address each of the Office Action listed concerns and adopt each of the Examiner's recommendations, reconsideration and withdrawal of the objection to the disclosure/specification are respectfully requested.

Any spelling, idiomatic, grammatical and/or other informality noted during further review of the disclosure/specification have been corrected.

PENDING CLAIMS

Claims 1-13 were pending in the application at the time of the Office Action. Unrelated to any prior art, scope or rejection, appropriate Claims have been amended, added or deleted in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, the amendments to the claims are unrelated to any prior art or scope adjustment, and are simply clarified claims in which Applicant is presently interested. At entry of this paper, Claims 1, 2, 5-9 and 13-22 are pending in the application for consideration and examination.

NON-ENTRY OF INFORMATION DISCLOSURE STATEMENT-TRAVERSED

Items 3 and 4 on pages 2 and 3 of the Office Action indicate that Applicant's previously-submitted Information Disclosure Sheet Under §1.56 has been indicated as being inadequate for obtaining printing of the references listed thereon on the face of any patent issuing hereon, apparently on a basis that Applicant has utilized a listing/format other than a Form PTO-1449. **Strong traversal is appropriate as there is no basis for such refusal**. More particularly, 37 CFR §1.98(a)(1) which was cited in the Office Action requires "[a] list of all patents, publications, applications, or other information submitted for consideration by the Office," which is exactly what Applicant submitted. Furthermore, MPEP §609 states "Applicants are encouraged to use the USPTO forms when preparing an information disclosure statement." The term "encouraged" does not mean "mandatory", and **there is no**

authorization within the MPEP or elsewhere for refusing a different (*i.e.*, non-Form PTO-1449) type of listing/format. Submitted herewith is a courtesy copy of the Information Disclosure Sheet listing the previously-submitted references, and Applicant respectfully requests written indication that the information (*i.e.*, references) listed thereon will appear on the printed face of any patent issuing hereon. Applicant respectfully thanks the Examiner in advance for such initialing/consideration.

REJECTIONS UNDER 35 USC §§102/103 - TRAVERSED

All 35 USC rejections *(i.e.,* the 35 USC §102 rejection of Claims 1, 2, 4, 5 and 9 as being anticipated by Schmitz (US 5,034,837); the §103 rejection of Claim 3 as being unpatentable over Schmitz in view of Aoyanagi (JP 03-100965); the §103 rejection of Claim 6 over Schmitz in view of Malek (US 4,903,157); the §103 rejection of Claim 7 over Schmitz in view of Jang (US 6,061,207); the §103 rejection of Claim 8 over Schmitz in view of Yaeger *et* at (US 4,996,617); the §103 rejection of Claims 10-12 over Schmitz in view of Hopkins *et al.* (US 5,345,347); and the §103 rejection of Claim 13 over Schmitz in view of Aoyanagi) are respectfully traversed. Such rejections have been rendered obsolete by the present clarifying amendments to Applicant's claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicants disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated herein by

reference. Further, all Office Action statements regarding the prior art rejections are respectfully traversed.

Unrelated to any prior art rejection, Claims 3, 4 and 10-12 have now been cancelled without prejudice or disclaimer of any scope or subject matter, thus rendering rejection of such claims obsolete at this time. Patentability of remaining ones of the rejected claims are supported as follows.

In order to properly support a §102 anticipatory-type rejection, any applied art reference must disclose each and every limitation of any rejected claim. In order to properly support a §103 obviousness-type rejection, the reference not only must suggest the claimed features, but also must contain the motivation for modifying the art to arrive at an approximation of the claimed features. However, the cited art does not adequately support a §102 anticipation-type rejection or a §103 obviousness-type rejection because it does not, at minimum, disclose (or suggest) the following limitations of Applicant's clarified claims.

As discussed within Applicant's specification, magnetic disk apparatus are being installed in many different types of portable (mobile) appliances (*e.g.*, cameras, tape recorders, etc.), and such appliances typically are subjected to more rough treatment that computer devices. As a result of such rough treatment, the magnetic disk apparatus therefore are exposed to much more jarring, dropping, etc. which may cause damage to the magnetic disks, rotating assembly and/or magnetic head. One important feature of Applicant's disclosed and claimed invention is that Applicant's magnetic disks are latched (*i.e.*, secured) whenever Applicant's magnetic disks are not being rotated. That is, as mentioned within Applicant's specification, the percentage of times when a magnetic disk apparatus is actually being accessed

regarding information to/from the magnetic disk, *i.e.*, actual access, may be less than one percent of the times. Accordingly, by Applicant's advantageous arrangement of securing the magnetic disks whenever the disks are not being rotated, such magnetic disks and the rotating assembly is protected further from damage in the event that the appliance (*e.g.*, camera, tape recorder, etc.) is dropped.

Regarding preclusion of renewal of the §§102 and 103 rejections based upon the previously-applied references, it is respectfully submitted that none of the applied references, taken alone or in any combination, discloses or suggests any type of arrangement wherein the magnetic disks are locked whenever they are not being rotated. For example, even the closest reference to Aoyanagi discloses an arrangement which is responsive to the main electric power source for the magnetic disk drive, *i.e.*, Aoyanagi is not responsive to the rotation/non-rotation of the disk. That is, when the main electric power source for Aoyanagi is turned off, a shape metal alloy 9 changes shape by temperature change so as to lock the gear 6 by the stopper pin 8. In contrast, when the main electrical power source is turned on, heat generation changes a shape of the metal alloy 9 component so as to disengage lock of the gear 6 by the stopper pin 8.

To summarize, none of the applied references latch (*i.e.*, secure) the magnetic disks whenever the disks are not being rotated.

In addition to the foregoing, the following additional remarks from Applicant's foreign representative also are submitted in support of traversal of the rejection and patentability of Applicant's claims.

Applicant's clarified claims specifically include magnetic disk latching. One important feature of the present invention is to latch a movable part of a magnetic

disk or a spindle motor when the magnetic disk is not being rotated, regardless of the condition of the magnetic disk apparatus. That is, when the magnetic disk apparatus is not in operation, the magnetic disk is latched, and when the magnetic disk is in operation but the magnetic disk is not being rotated, the magnetic disk is still latched. With this feature, resistance of the magnetic disk apparatus against an external impact can be enhanced.

Schmitz only discloses a head latch, but does not disclose a disk latch and accordingly, Claims 1 and 9 are not anticipated by Schmitz.

Aoyanagi discloses a disk latch, but it does not disclose the disk latch occurring during times when the disk apparatus is in operation (*i.e.*, power is on but the disk is not rotating). In the apparatus of Aoyanagi, the disk is latched when the electric power is turned off, as described in the first three paragraphs on page seven of the English-language translation of Aoyanagi. Accordingly, Claim 13 is not suggested from Schmitz in view of Aoyangi.

Further, the invention of Aoyanagi appears to not operate properly in and of itself. A bias spring to deform the shape memory alloy 9 from its original position shown in Fig. 3(a) toward the engagement position shown in Fig. 3(b) is needed. The shape memory alloy 9 cannot be deformed by its own spring force. Accordingly, in fact, the apparatus of Aoyanagi does not function properly.

As a result of all of the foregoing, it is respectfully submitted that the applied art would not support a §102 anticipation-type rejection or a §103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such §§102 and 103 rejections, and express written allowance of all of the rejected claims, are respectfully requested.

RESERVATION OF RIGHTS

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, *i.e.*, Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

EXAMINER INVITED TO TELEPHONE

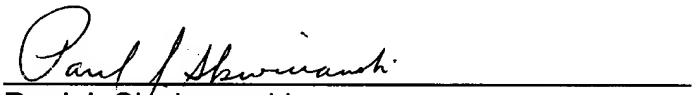
The Examiner is invited to telephone the undersigned at the local D.C. area telephone 703-312-6600, to discuss an Examiner's Amendment or other suggested action for accelerating prosecution and moving the present application to allowance.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are in condition for allowance. Accordingly, early allowance of such claims is respectfully requested.

Submitted concurrently herewith is a Petition for Extension of Time Under 37 CFR §1.136 and Form PTO-2038 authorizing payment of the requisite Petition fee (Code 1251). To whatever other extent is actually appropriate, Applicant respectfully petitions the Commissioner for an extension of time under 37 CFR §1.136. Please charge any shortage in the fees due in connection with the filing of this paper to ATS&K Deposit Account No. 01-2135 (referencing Case No. 500.40346X00).

Respectfully submitted,



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ATTACHMENTS:
One (1) Sheet FORMAL Fig. 6
Copy of Information Disclosure Sheet
Petition for Extension of Time
Form PTO-2038 (Fee Code 1251)